

EXHIBIT A

UNITED STATES DISTRICT COURT

for the

Southern District of New York

THE NEW YORK TIMES COMPANY

Plaintiff

v.

MICROSOFT CORPORATION, OPENAI, INC., et al.

Defendant

Civil Action No. 1:23-cv-11195-SHS

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Google LLC

c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: Susman Godfrey LLP
One Manhattan West
New York, NY 10001

Date and Time:

01/31/2025 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/06/2025

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Ian B. Crosby

*Attorney's signature*The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

THE NEW YORK TIMES COMPANY, who issues or requests this subpoena, are:

Ian B. Crosby, 401 Union Street, Suite 3000, Seattle WA 98101-2683, icrosby@susmangodfrey.com, 206-516-3861

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:23-cv-11195-SHS

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* _____
 on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
 \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

MICROSOFT CORPORATION, OPENAI, INC.,
OPENAI LP, OPENAI GP, LLC, OPENAI, LLC,
OPENAI OPCO LLC, OPENAI GLOBAL LLC,
OAI CORPORATION, LLC, and OPENAI
HOLDINGS, LLC,

Defendants.

Civil Action No. 1:23-cv-11195

ATTACHMENT A TO DOCUMENT SUBPOENA TO GOOGLE LLC

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, Plaintiff in the above-captioned civil action commands You to produce the materials described below, on or before January 31, 2025, at the location shown on the attached subpoena. Plaintiff is also amenable to an electronic production.

DEFINITIONS

1. “Action” means the above captioned litigation, *The New York Times Company v. Microsoft Corporation et. al.*, Case No. 1:23-cv-11195-SHS-OTW (S.D.N.Y.).
2. “You” and “Your” refers to Google LLC.
3. The term “Google LLC” includes Google LLC and any of its directors, officers, employees, partners, members, representatives, agents (including attorneys, accountants, consultants, investment advisors or bankers), and any other person acting or purporting to act on their behalf, as well as corporate parents, subsidiaries, affiliates, predecessor entities, successor entities, divisions, departments, groups, acquired entities, related entities, or any other entity acting

or purporting to act on their behalf.

4. “Google” means “Google LLC.”

5. “The Times” or “The New York Times” means Plaintiff The New York Times Company, its subsidiaries, affiliates, divisions, predecessors in interest, successors, or assignees, and their respective officers, directors, employees, consultants, representatives, and agents.

6. “Microsoft” means Microsoft Corporation, any of its directors, officers, employees, partners, members, representatives, agents (including attorneys, accountants, consultants, investment advisors or bankers), and any other person acting or purporting to act on their behalf, as well as corporate parents, subsidiaries, affiliates, predecessor entities, successor entities, divisions, departments, groups, acquired entities, related entities, or any other entity acting or purporting to act on their behalf.

7. “OpenAI” means OpenAI, Inc., OpenAI GP, LLC, OpenAI, LLC, OpenAI OPCO LLC, OpenAI Global LLC, OAI Corporation, LLC, OpenAI Holdings, LLC, and any of their directors, officers, employees, partners, members, representatives, agents (including attorneys, accountants, consultants, investment advisors or bankers), and any other person acting or purporting to act on their behalf, as well as corporate parents, subsidiaries, affiliates, predecessor entities, successor entities, divisions, departments, groups, acquired entities, related entities, or any other entity acting or purporting to act on their behalf.

8. “Defendants” means the Defendants in this Action, OpenAI and Microsoft, as defined above.

9. “AI Model(s)” means a component of an information system and/or large language model that implements artificial intelligence (“AI”) technology or uses computational, statistical, or machine-learning techniques to produce outputs from a given set of inputs.

10. “Generative AI Models(s)” means AI Models that emulate the structure and characteristics of input data in order to generate derived synthetic content, such as images, videos, audio, text, and other digital content. Generative AI Models include Google’s Generative AI Models, including PaLM 2 and any version of Gemini, and any other Generative AI Models created by Google or used in its products or services. Generative AI Models also include Defendants’ Generative AI Models, such as GPT base, GPT-1, GPT-2, GPT-3, GPT 3.5, GPT-3.5 Turbo, GPT-4, GPT-4 Turbo, GPT-4o, GPT-4o mini, o1, o1-mini, and MAI-1.

11. “Generative AI Product(s) and Service(s)” means any publicly available or commercial product or service offering that includes or is built on a Generative AI Model. Generative AI Products and Services include Google’s Generative AI Products and Services, such as Bard, Gemini, Gemini Advanced, Search Generative Experience, and AI Overviews. Generative AI Products and Services also include Defendants’ Generative AI Products and Services, such as Microsoft Copilot, ChatGPT, Browse with Bing, and SearchGPT.

12. “Journalism” means the activity of writing or creating content for newspapers, magazines, news websites, mobile applications, television, podcasts, or any other publication and/or news outlet, and includes the work of The Times as alleged in the First Amended Complaint in the Action.

13. “Communication” means the conveyance (in the form of facts, ideas, thoughts, opinions, data, inquiries or otherwise) of information and includes correspondence, memoranda, reports, presentations, face-to-face conversations, telephone conversations, text messages, instant messages, voice messages, negotiations, agreements, inquiries, understandings, meetings, letters, notes, mail, email, exchanges of recorded information, and postings of any type. Communications includes instances where one party disseminates information that the other party receives but does

not respond to.

14. “Concern” or “Concerning” means to be the subject of, make reference to, comment on, discuss, describe, identify, or contain text or images about the stated topic.

15. “Documents” means all materials within the full scope of Federal Rule of Civil Procedure 34 including all writings and recordings, including the originals, drafts and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including email and attachments, correspondence, memoranda, notes, diaries, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, receipts, returns, summaries, pamphlets, books, interoffice and intra-office communications, instant messages, chats, offers, notations of any sort of conversations, working papers, applications, permits, file wrappers, indices, telephone calls, meetings or printouts, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments of any of the foregoing), graphic or aural representations of any kind (including photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic, mechanical, magnetic, optical, or electric records or representations of any kind (including computer files and programs, tapes, cassettes, discs, and recordings), including metadata.

16. “Including” means including but not limited to.

INSTRUCTIONS

1. Please produce each Document requested herein in its entirety and without deletion or excisions, regardless of whether You consider the entire document to be relevant or responsive.

2. If any Document is known to have existed but no longer exists, has been destroyed, or is otherwise unavailable, please identify the Document, the reason for its loss, destruction, or

unavailability, the name of each person known or reasonably believed by You to have had possession, custody, or control of the original and any copy thereof (if applicable), and a description of the disposition of each copy of the Document.

3. If no Documents responsive to a particular request exist, please state that no responsive Documents exist.

4. Construe the conjunctions “and” and “or” non-restrictively or nonexclusively if doing so would bring within the scope of these Requests Documents that might otherwise be construed to be outside of their scope.

5. Construe the use of the singular to include the plural; the use of the masculine, feminine, or neuter gender to include the others; and the use of one form of the verb to include the others if doing so would bring within the scope of these Requests Documents that might otherwise be construed to be outside of their scope.

DOCUMENT REQUESTS

REQUEST 1:

Documents concerning the behavior of users of Generative AI Products and Services, including (i) documents concerning the extent to which users of Generative AI Products and Services navigate away from Generative AI Products and Services to other websites, (ii) documents concerning efforts to modify the frequency with which users navigate away from Generative AI Products and Services to other websites, and (iii) documents concerning click-through rates to other websites, or user engagement with those websites, for traditional search products as compared to Generative AI Products and Services.

REQUEST 2:

Documents concerning the impact of Generative AI Models and Generative AI Products

and Services on Journalism, including the use of Generative AI Models and Products as a source of Journalism or a substitute for Journalism.

REQUEST 3:

Documents and communications concerning negotiations between Google and content owners, including The Times and Reddit, over Google's use of content in Google's Generative AI Models and Google's Generative AI Products or Services.

REQUEST 4:

Licensing agreements with content owners, including Reddit, relating to Google's use of content in Google's Generative AI Models and Google's Generative AI Products or Services.

Dated: January 6, 2025

/s/ Ian Crosby

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The New York Times Company

CERTIFICATE OF SERVICE

I declare that I am employed with the law firm of Susman Godfrey L.L.P., whose address is 1900 Avenue of the Stars Suite 1400, Los Angeles, CA 90067. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on January 6, 2025, I served a copy of:

SUBPOENA TO GOOGLE TO PRODUCE DOCUMENTS

- ☒ **BY ELECTRONIC SERVICE [Fed. Rule Civ. Proc. Rule 5(b)(2)(E)]** by electronically mailing a true and correct copy through Susman Godfrey L.L.P.'s electronic mail system to the email address(es) set forth below, or as stated on the attached service list per agreement in accordance with Fed. Rule Civ. Proc. Rule 5(b)(2)(E).
- ☐ **BY PERSONAL SERVICE** I caused to be delivered such envelope by hand to the offices of the addressee.

See Attached Service list

I declare under penalty of perjury that the following is true and correct.

Executed at Los Angeles, California, this 6th day of January, 2025.

/s/ Ellie Dupler

Ellie Dupler

SERVICE LIST

Attorneys for Defendants

**OpenAI, Inc., OpenAI LP, OpenAI GP, LLC, OpenAI, LLC,
OpenAI OpCo LLC, OpenAI Global LLC, OAI Corporation, LLC,
And OpenAI Holdings, LLC**

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